

PROB. 12B
(7/93)

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

United States District Court

for the

DISTRICT OF HAWAII

NOV 14 2006
at 3 o'clock and 21 min. PM
SUE BEITIA, CLERK

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: VINCENT K. HIGA

Case Number: CR 02-00200DAE-01

Name of Sentencing Judicial Officer: The Honorable David Alan Ezra
U.S. District Judge

Date of Original Sentence: 3/10/2003

Original Offense: Felon in Possession of Firearm, in violation of 18 U.S.C. §§ 922(g)
and 924(a)(2), a Class C felony

Original Sentence: Thirty-seven (37) months imprisonment, to be followed by three (3) years of supervised release with the following special conditions:
1) Defendant shall participate in a substance abuse program, which must include drug testing at the discretion and direction of the Probation Office; 2) That the defendant is prohibited from possessing any illegal or dangerous weapons; 3) That the defendant participate in a mental health program, to include anger management treatment at the discretion and direction of the Probation Office; 4) That the defendant shall submit his person, residence, place of employment or vehicle to a search conducted by the U.S. Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other resident that the premises may be subject to search pursuant to this condition. The Court also ordered that a fine of \$1,000 is due immediately and any remaining balance upon release from confinement be paid during the period of supervision on an installment basis according to the collection policy of the Probation Office but at a rate of not less than 10 percent of his monthly gross income.

Type of Supervision: Supervised Release Date Supervision Commenced: 1/2/2006

PETITIONING THE COURT

[X] To modify the conditions of supervision as follows:

General Condition: That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than eight valid drug tests per month during the term of supervision (mandatory condition).

Special Condition No. 1: That the defendant shall participate and comply with substance abuse treatment which includes drug and alcohol testing. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.

CAUSE

Since the subject's release, he completed group and individual substance abuse counseling. He continues to be randomly drug tested at Hina Mauka. The subject also participates in bi-weekly mental health/anger management counseling with Dr. Kevin Connors. Additionally, the subject paid his fine in full and works full-time as a commercial truck driver.

However, considering the violent nature and circumstances of the subject's instant offense, as well as his history of violence with respect to previous convictions, it appears prudent to randomly test the subject for illicit drug use until the expiration of supervision.

In light of U.S. vs. Stephens, we are requesting that the Court modify the mandatory drug testing condition (General Condition) to allow for additional drug testing. We are also requesting that Special Condition No. 1 be revised to include updated language.

Prob 12B
(7/93)

3

As noted by his signature on the attached Waiver of Hearing form (Probation Form 49), the subject maintains no objections to this recommendation. The subject's attorney and the U.S. Attorney's Office have been notified of the proposed modifications.

Respectfully submitted by,



FRANK M. CONDELLO, II
U.S. Probation Officer

Approved by:

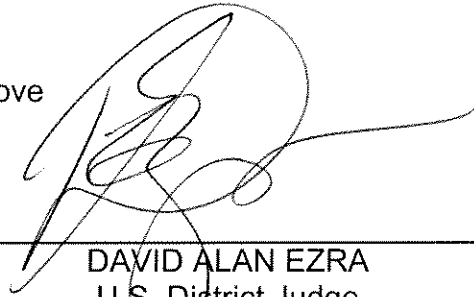


TIMOTHY M. JENKINS
Supervising U.S. Probation Officer

Date: 11/9/2006

THE COURT ORDERS:

- ☒ The Modification of Conditions as Noted Above
☐ Other



DAVID ALAN EZRA
U.S. District Judge

11-9-06

Date

PROB 49
(5/96)

United States District Court

District of Hawaii

Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

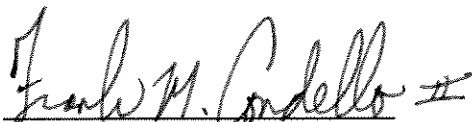
I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

[X] To modify the conditions of supervision as follows:

General Condition: That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than eight valid drug tests per month during the term of supervision (mandatory condition).

Special Condition No. 1: That the defendant shall participate and comply with substance abuse treatment which includes drug and alcohol testing. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.

Witness:


FRANK M. CONDELLO, II
U.S. Probation Officer

Signed:


VINCENT K. HIGA
Supervised Releasee

10/26/06
Date